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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,471	02/22/2002	Charles S. Musso JR.	21524/1110	4389

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EXAMINER

FOX, CHARLES A

ART UNIT PAPER NUMBER

3652

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/082,471

Applicant(s)

MUSSO ET AL.

Examiner

Charles A. Fox

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 November 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-72 is/are pending in the application.
- 4a) Of the above claim(s) 7,8,10-44 and 52-72 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,9 and 45-51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20021119.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

This application has been reassigned to Examiner Charles A. Fox

***Election/Restrictions***

Claims 7,8,10-44 and 52-72 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on November 29, 2004. The restriction requirement is held to be valid by the examiner for the reasons stated in the original requirement. Each of the inventions have separate utility as shown previously, therefore the restriction requirement is made final.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Jones. Regarding claims 1 and 2 Jones US 1,756,091 discloses a dump truck body comprising:

a receptacle defined by a floor (2) first and second side walls (4) and a front wall extending between said side walls:

wherein said side walls have a first longitudinal edge distal from said floor and a second longitudinal edge proximate to said floor;

a first and a second longitudinal panels (6,7) with each having a longitudinal that is pivotally connected to the first edge of said side walls;

wherein the panels are placed adjacent the side walls when in their raised position and form an angle between the side walls and said floor when in the lowered position;

wherein said lowered position will urge any load in the receptacle towards the center longitudinal portion of the floor.

Regarding claim 9 Jones further discloses that said receptacle also has a tail gate (45) extending between the side walls.

Claims 45,46,49 and 51 are rejected under 35 U.S.C. 102(b) as being anticipated by Jewell, Jr. regarding claims 45,46 and 49 Jewell, Jr. US 2,870,923 discloses a dump truck body comprising:

a receptacle defined by a floor and a first and second side wall with a front wall extending between two said side walls:

first and second sloped panels (12) connected to said floor by a pivot (39);

wherein said panels are horizontal in a first position proximate the floor and can be pivoted to a sloped position relative to said side walls such that any cargo in the receptacle will be urged to the center of said receptacle.

In regards to claim 51 Jewell, Jr. further discloses a tail gate extending between said side walls.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jewell, Jr. as applied to claim 46 above, and further in view of Jones '091. Jewell, Jr. teaches the limitations of claim 46 as above, he does not teach the sloped panels as reaching the distal longitudinal edges of the side wall relative the floor. Jones US 1,756,091 teaches a dump body with movable sloping interior walls (6,7) that are attached to the upper sides of side walls (4) of said dump body when in the sloped position. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Jewell, Jr. with fully extending panels as taught by Jones '091 in order to urge all material in said dump body towards the center on the truck for controlled dumping of said material.

Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jewell, Jr. as applied to claim 46 above, and further in view of Kutscha. Jewell, Jr. teaches the limitations of claim 46 as above, he does not teach the panels as overlapping when in the non-sloped position. Kutscha US 1,928,859 teaches a receptacle for a truck comprising:

a floor(4) with two side walls (2) and a front wall (3) extending between said side walls;

Art Unit: 3652

two panels (13) for creating sloped surfaces between said floor and said side walls;

wherein when in the non-sloped position at least one of said panels overlays the other panels. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Jewell, Jr. with overlaying panels as taught by Kutscha in order to make the panels lighter in weight while still covering the floor of the truck such that other goods besides bulk material may be carried by the vehicle, thereby increasing the usefulness of the vehicle.

Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jewell, Jr. as applied to claim 46 above, and further in view of Musso. Jewell, Jr. teaches the limitations of claim 46 as above, he does not teach the sloped panels as being non-planer. Musso US 5,437,499 teaches a set of sloped panels (80,80') for a dump truck, wherein said panels are not planer. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Jewell, Jr. with the non-planer panels as taught by Musso in order to make the panels with greater structural integrity.

Claims 3,4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones '091 as applied to claim 2 above, and further in view of Jones '244. Jones '091 teaches the limitations of claim 2 as above he does not teach the panels as being comprised of two sections. Jones US 2,570,244 teaches a dump body for a truck comprising:

a floor and two side walls;

a panel (20,22) pivotally attached to each of said side walls;  
wherein said panels are comprised of a first section (20) connected to said side wall;  
a second section (22) connected to said first section;  
said sections are connected to each other with a sliding member.

It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Jones '091 with the repositioning panels as taught by Jones '244 in order to allow the panels to be fitted onto a plurality of truck beds and still operate as intended no matter the height of the side wall of the beds, thereby allowing the device to be installed on any number of existing beds without modification which leads to decreased manufacturing cost for the device.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jones'091 and Jones '244 as applied to claim 4 above, and further in view of Johns. Jones and Jones teach the limitations of claim 4 as above, they do not teach the plurality of panels as being connected by a hinge. Johns US 2,471,874 teaches a device with a plurality of panels (22,23) for forming a sloped surface between a wall and a floor of the device, wherein said panels are connected by hinges. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Jones and Jones with hinged panels as taught by Johns in order to allow the device to be deployed in an easier fashion, while still directing the cargo to the desired location.

Art Unit: 3652


The prior art made of record and not relied upon, but considered pertinent to applicant's disclosure is: Glew 1962, Hamm 1967, Johnson 1972, Lamoureux 1991, Houle et al. 1992 and Johnas 2004

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 703-605-4294. The examiner can normally be reached between 7:00-5:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached at 703-308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CAF  
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2-5-05

  
JAMES W. KEENAN  
PRIMARY EXAMINER